

110TH CONGRESS
1ST SESSION

S. 906

To prohibit the sale, distribution, transfer, and export of elemental mercury,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2007

Mr. OBAMA (for himself and Ms. MURKOWSKI) introduced the following bill;
which was read twice and referred to the Committee on Environment and
Public Works

A BILL

To prohibit the sale, distribution, transfer, and export of
elemental mercury, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mercury Market Mini-
5 mization Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) mercury and mercury compounds are highly
9 toxic to humans, ecosystems, and wildlife;

1 (2) as many as 10 percent of women in the
2 United States of childbearing age have mercury in
3 the blood at a level that could put a baby at risk;

4 (3) as many as 630,000 children born annually
5 in the United States are at risk of neurological prob-
6 lems related to mercury;

7 (4) the most significant source of mercury expo-
8 sure to people in the United States is ingestion of
9 mercury-contaminated fish;

10 (5) the Environmental Protection Agency re-
11 ports that, as of 2004—

12 (A) 44 States have fish advisories covering
13 over 13,000,000 lake acres and over 750,000
14 river miles;

15 (B) in 21 States the freshwater advisories
16 are statewide; and

17 (C) in 12 States the coastal advisories are
18 statewide;

19 (6) the long-term solution to mercury pollution
20 is to minimize global mercury use and releases to
21 eventually achieve reduced contamination levels in
22 the environment, rather than reducing fish consump-
23 tion since uncontaminated fish represents a critical
24 and healthy source of nutrition worldwide;

1 (7) mercury pollution is a transboundary pollutant,
2 depositing locally, regionally, and globally, and
3 affecting water bodies near industrial sources (including
4 the Great Lakes) and remote areas (including the Arctic Circle);

6 (8) the free trade of mercury and mercury compounds
7 on the world market, at relatively low prices
8 and in ready supply, encourages the continued use
9 of mercury outside of the United States, often involving
10 highly dispersive activities such as artisanal
11 gold mining;

12 (9) the intentional use of mercury is declining
13 in the United States as a consequence of process
14 changes to manufactured products (including batteries,
15 paints, switches, and measuring devices), but
16 those uses remain substantial in the developing
17 world where releases from the products are extremely
18 likely due to the limited pollution control
19 and waste management infrastructures in those
20 countries;

21 (10) the member countries of the European
22 Union collectively are the largest source of mercury
23 exports globally;

1 (11) the European Union is in the process of
 2 enacting legislation that will prohibit mercury ex-
 3 ports by not later than 2011;

4 (12) the United States is a net exporter of mer-
 5 cury and, according to the United States Geologic
 6 Survey, exported 506 metric tons of mercury more
 7 than the United States imported during the period
 8 of 2000 through 2004; and

9 (13) banning exports of mercury from the
 10 United States will have a notable affect on the mar-
 11 ket availability of mercury and switching to afford-
 12 able mercury alternatives in the developing world.

13 **SEC. 3. PROHIBITION ON SALE, DISTRIBUTION, OR TRANS-**
 14 **FER OF MERCURY BY DEPARTMENT OF DE-**
 15 **FENSE OR DEPARTMENT OF ENERGY.**

16 Section 6 of the Toxic Substances Control Act (15
 17 U.S.C. 2605) is amended by adding at the end the fol-
 18 lowing:

19 “(f) MERCURY.—

20 “(1) PROHIBITION ON SALE, DISTRIBUTION, OR
 21 TRANSFER OF MERCURY BY FEDERAL AGENCIES.—

22 Except as provided in paragraph (2), effective begin-
 23 ning on the date of enactment of this subsection, no
 24 Federal agency shall convey, sell, or distribute to
 25 any other Federal agency, any State or local govern-

ment agency, or any private individual or entity any elemental mercury under the control or jurisdiction of the Federal agency.

“(2) EXCEPTION.—Paragraph (1) shall not apply to a transfer between Federal agencies of elemental mercury for the sole purpose of facilitating storage of mercury to carry out this Act.”.

SEC. 4. PROHIBITION ON EXPORT OF MERCURY.

Section 12 of the Toxic Substances Control Act (15 U.S.C. 2611) is amended—

(1) in subsection (a) by striking “subsection (b)” and inserting “subsections (b) and (c)”; and

(2) by adding at the end the following:

“(c) PROHIBITION ON EXPORT OF MERCURY.—

“(1) ELEMENTAL MERCURY.—Effective January 1, 2010, the export of elemental mercury from the United States is prohibited.

“(2) REPORT TO CONGRESS ON MERCURY COMPOUNDS.—

“(A) REPORT.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of the Mercury Market Minimization Act of 2007, the Administrator shall publish and submit to Congress a report on mercuric chloride,

1 mercurous chloride or calomel, mercuric
2 oxide, and other mercury compounds, if
3 any, that may currently be used in signifi-
4 cant quantities in products or processes.

5 “(ii) INCLUSIONS.—The report shall
6 include an analysis of—

7 “(I) the sources and amounts of
8 each mercury compound produced an-
9 nually in, or imported into, the United
10 States;

11 “(II)(aa) the purposes for which
12 each of the compounds are used do-
13 mestically;

14 “(bb) the quantity of the com-
15 pounds currently consumed annually
16 for each purpose; and

17 “(cc) the estimated quantity of
18 the compounds to be consumed for
19 each purpose during calendar year
20 2010 and thereafter;

21 “(III) the sources and quantities
22 of each mercury compound exported
23 from the United States during each of
24 the preceding 3 calendar years;

1 “(IV) the potential for the com-
2 pounds to be processed into elemental
3 mercury after export from the United
4 States; and

5 “(V) other information that Con-
6 gress should consider in determining
7 whether to extend the export prohibi-
8 tion to include 1 or more of those
9 mercury compounds.

10 “(B) PROCEDURE.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (ii), for the purpose of pre-
13 paring the report under this paragraph,
14 the Administrator may use the information
15 gathering authorities of this title, including
16 sections 10 and 11.

17 “(ii) EXCEPTION.—Subsection (b)(2)
18 of section 11 shall not apply to activities
19 under this subparagraph.

20 “(3) EXCESS MERCURY STORAGE ADVISORY
21 COMMITTEE.—

22 “(A) ESTABLISHMENT.—There is estab-
23 lished an advisory committee, to be known as
24 the ‘Excess Mercury Storage Advisory Com-

mittee' (referred to in this paragraph as the
'Committee').

“(B) MEMBERSHIP.—

“(i) IN GENERAL.—The Committee
shall be composed of 9 members, of
whom—

“(I) 2 members shall be jointly
appointed by the Speaker of the
House of Representatives and the Ma-
jority Leader of the Senate—

“(aa) 1 of whom shall be
designated to serve as Chair-
person of the Committee; and

“(bb) 1 of whom shall be
designated to serve as Vice-
Chairperson of the Committee;

“(II) 1 member shall be the Ad-
ministrator;

“(III) 1 member shall be the Sec-
retary of Defense;

“(IV) 1 member shall be a rep-
resentative of State environmental
agencies;

“(V) 1 member shall be a rep-
resentative of State attorneys general;

1 “(VI) 1 member shall be a rep-
2 resentative of the chlorine industry;

3 “(VII) 1 member shall be a rep-
4 resentative of the mercury waste
5 treatment industry; and

6 “(VIII) 1 member shall be a rep-
7 resentative of a nonprofit environ-
8 mental organization.

9 “(ii) APPOINTMENTS.—Not later than
10 45 days after the date of enactment of this
11 subsection, the Administrator, in consulta-
12 tion with the appropriate congressional
13 committees, shall appoint the members of
14 the Committee described in subclauses (IV)
15 through (VIII) of clause (i).

16 “(C) INITIAL MEETING.—Not later than
17 30 days after the date on which all members of
18 the Committee have been appointed, the Com-
19 mittee shall hold the initial meeting of the Com-
20 mittee.

21 “(D) MEETINGS.—The Committee shall
22 meet at the call of the Chairperson.

23 “(E) QUORUM.—A majority of the mem-
24 bers of the Committee shall constitute a
25 quorum.

1 “(F) REPORT.—Not later than 1 year
2 after the date of enactment of this subsection,
3 the Committee shall submit to Congress a re-
4 port describing the findings and recommenda-
5 tions of the Committee, if any, relating to—

6 “(i) the environmental, health, and
7 safety requirements necessary to prevent—

8 “(I) the release of elemental mer-
9 cury into the environment; and

10 “(II) worker exposure from the
11 storage of elemental mercury;

12 “(ii) the estimated annual cost of
13 storing elemental mercury on a per-pound
14 or per-ton basis;

15 “(iii) for the 40-year period beginning
16 on the date of submission of the report,
17 the optimal size, number, and other char-
18 acteristics of Federal facilities required to
19 store elemental mercury under current and
20 anticipated jurisdictions of each Federal
21 agency;

22 “(iv) the estimated quantity of—

23 “(I) elemental mercury that will
24 result from the decommissioning of

1 mercury cell chlor-alkali facilities in
2 the United States; and

3 “(II) any other supplies that may
4 require storage to carry out this Act;

5 “(v) for the 40-year period beginning
6 on the date of submission of the report,
7 the estimated quantity of elemental mer-
8 cury generated from the recycling of un-
9 wanted products and other wastes that will
10 require storage to comply with the export
11 prohibitions under this Act;

12 “(vi) any legal, technical, economic, or
13 other barrier that may prevent the private
14 sector from storing elemental mercury pro-
15 duced by the private sector during the 40-
16 year period beginning on the date of sub-
17 mission of the report, including a descrip-
18 tion of measures to address the barriers;

19 “(vii) the advantages and disadvan-
20 tages of consolidating the storage of mer-
21 cury produced by public and private
22 sources under the management of the pub-
23 lic or private sector;

1 “(viii) the optimal plan of the Com-
 2 mittee for storing excess mercury produced
 3 by public and private sources; and

4 “(ix) additional research, if any, re-
 5 quired to determine a long-term disposal
 6 option for the storage of excess mercury.

7 “(G) COMPENSATION OF MEMBERS.—

8 “(i) IN GENERAL.—

9 “(I) NON-FEDERAL EMPLOY-
 10 EES.—A member of the Committee
 11 who is not an officer or employee of
 12 the Federal Government shall be com-
 13 pensated at a rate equal to the daily
 14 equivalent of the annual rate of basic
 15 pay prescribed for level V of the Exec-
 16 utive Schedule under section 5316 of
 17 title 5, United States Code, for each
 18 day (including travel time) during
 19 which the member is engaged in the
 20 performance of the duties of the Com-
 21 mittee.

22 “(II) FEDERAL EMPLOYEES.—A
 23 member of the Committee who is an
 24 officer or employee of the Federal
 25 Government shall serve without com-

1 pensation in addition to the com-
2 pensation received for the services of
3 the member as an officer or employee
4 of the Federal Government.

5 “(ii) TRAVEL EXPENSES.—A member
6 of the Committee shall be allowed travel
7 expenses, including per diem in lieu of sub-
8 sistence, at rates authorized for an em-
9 ployee of an agency under subchapter I of
10 chapter 57 of title 5, United States Code,
11 while away from the home or regular place
12 of business of the member in the perform-
13 ance of the duties of the Committee.

14 “(H) STAFF AND FUNDING.—The Admin-
15 istrator shall provide to the Committee such
16 funding and additional personnel as are nec-
17 essary to enable the Committee to perform the
18 duties of the Committee.

19 “(I) TERMINATION.—The Committee shall
20 terminate 180 days after the date on which the
21 Committee submits the report of the Committee
22 under subparagraph (F).

1 “(4) INAPPLICABILITY OF UNREASONABLE RISK
2 REQUIREMENT.—Subsection (a) shall not apply to
3 this subsection.”.

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